

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

EMPIRE FIRE AND MARINE
INSURANCE CO.,

Plaintiff,

-against-

MEMORANDUM AND ORDER

1:16-cv-2990(FB)(SMG)

JOSEPH ALGERIO, ALI KAZIM, STAR
CRUISER TRANSPORTATION,
ENTERPRISE HOLDINGS, INC., and
DENNISE DIPPOLITO, individually,

Defendants.

-----X

Appearances:

For the Plaintiff

DANIEL MACCLAREN STEWART
White, Fleischer & Fino, LLP
61 Broadway, 18th Floor
New York, NY 10006

For the Defendant

BLOCK, Senior District Judge:

On November 8, 2017, Magistrate Judge Steven M. Gold issued a Report and Recommendation (“R&R”) recommending that Plaintiff’s Motion for Default Judgment be granted, and a judgment be entered declaring that Plaintiff Empire Fire and Marine Insurance Co. (“Empire”) has no obligation to defend or indemnify Defendant Joseph Algerio (“Algerio”) in the underlying lawsuit, *Dippolito v. Kazim et al.*, Index No. 004780/2012. The R&R instructed that “[a]ny objections to the recommendations made in this Report must be made within fourteen days after filing of this Report and

Recommendation, and, in any event, on or before November 22, 2017.” No objections have been filed to date, and Algerio’s opportunity to object has passed.

Where there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court must conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). No such error appears here. Accordingly, the Court adopts the R&R without de novo review and grants Empire’s Motion for Default Judgment.

SO ORDERED.

/s/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
November 29, 2017